

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY MAY 6, 2010

AMENDED IN ASSEMBLY APRIL 22, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2337

Introduced by Assembly Member Ammiano

February 19, 2010

An act to add Section 7513.75 to the Government Code, relating to investments.

LEGISLATIVE COUNSEL'S DIGEST

AB 2337, as amended, Ammiano. Public retirement system: investments: predatory investment practices.

The California Constitution provides that the Legislature may by statute prohibit retirement board investments if it is in the public interest to do so, and providing that the prohibition satisfies specified fiduciary standards.

Existing law prohibits the *boards of the* Public Employees' Retirement System and the State Teachers' Retirement System from investing public employee retirement funds in a company with active business operations in Sudan and Iran, as specified. Existing law also requires *the boards of* these retirement systems to sell or transfer any investments in a company with business operations in Sudan. Existing law requires *the boards of* these retirement systems to submit an annual report to the Legislature regarding any investments in a company with business operations in Sudan and the sale or transfer of those investments. Existing law requires the state to indemnify, from the General Fund, and hold harmless the present, former, and future board members,

officers, and employees of, and investment managers under contract with, these retirement systems by reason of any decision to restrict, reduce, or eliminate investments in Sudan, as specified.

This bill would additionally prohibit the boards of public pension or retirement systems, as defined, from investing public employee retirement funds in a company with business operations engaged in predatory investment practices, as defined, that rely on, or result in, the displacement of persons residing in rent-regulated housing, converting rent-regulated housing units to market rate units, or raising rents above regulated levels as determined by the appropriate governing authority, in order to generate profits to investors and would require the boards to establish a policy in regard to investing in rent-regulated housing, as specified. This bill would make related legislative findings and declarations.

Existing law provides that a statute that imposes a requirement that a state agency submit a periodic report to the Legislature is inoperative on a date 4 years after the date the first report is due.

This bill would, notwithstanding that requirement, require these boards to report *annually* to the Legislature regarding implementation and compliance of the above-described provisions and regarding compliance with the provisions of the rent-regulated housing investment policy ~~by January 1, 2012, and by January 1 of every year thereafter.~~ The bill would also require these boards to develop and implement, on or before June 30, 2011, and thereafter maintain, a policy that prohibits the investment of public employee retirement funds in predatory investment practices, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares that
2 investments by public retirement boards in companies that engage
3 in predatory investment practices, which rely on, or result in, the
4 displacement of persons residing in rent-regulated housing in order
5 to generate profits to investors, are not only harmful to the persons
6 displaced by these practices but also to the entire community in
7 which those persons reside.

8 (b) The Legislature further finds and declares that it is in the
9 public's interest to enact legislation to prohibit the investment of

1 retirement funds in companies engaged in, or investing in
2 companies engaged in, predatory investment practices that result
3 in excessive rent increases imposed upon, or the eviction or
4 displacement of, persons residing in rent-regulated housing.

5 SEC. 2. Section 7513.75 is added to the Government Code, to
6 read:

7 7513.75. (a) As used in this section, the following definitions
8 shall apply:

9 (1) “Board” means the retirement board of a public pension or
10 retirement system, as defined in subdivision (h) of Section 17 of
11 Article XVI of the California Constitution.

12 (2) (A) “Predatory investment practices” means *private real*
13 *estate* investments that rely on, or result in, the displacement of
14 persons residing in rent-regulated housing, converting
15 rent-regulated housing units to market rate units, or raising rents
16 above regulated levels as determined by the appropriate governing
17 authority, in order to generate profits to investors. “Predatory
18 investment practices” shall not include investment in strategies
19 that create new, or redevelop existing, rent-regulated housing units,
20 including strategies that include demolition of existing
21 rent-regulated housing units, provided that the following minimum
22 criteria are met:

23 (i) Any rent-regulated housing units that are demolished as part
24 of the investment or project are replaced with new rent-regulated
25 housing units.

26 (ii) Any person lawfully residing in rent-regulated units who is
27 displaced as a result of such strategies receives relocation benefits
28 in accordance with relocation requirements as mandated by the
29 local housing authority or by state or federal laws, if applicable.

30 ~~(iii) The strategy is undertaken pursuant to an agreement with~~
31 ~~a local government entity.~~

32 (B) “Predatory investment practices” shall not include the
33 exercise of the power of sale granted under Section 2924 of the
34 Civil Code.

35 (C) *For purposes of this paragraph “private real estate*
36 *investments” shall not include real estate investment trusts or*
37 *other similar securities that are publicly traded.*

38 (b) The board shall develop and implement, on or before June
39 30, 2011, and thereafter maintain, a policy that prohibits the
40 investment of public employee retirement funds in predatory

1 investment practices. The policy shall include, but not be limited
2 to, the following requirements:

3 (1) A prohibition on the investment of public employee
4 retirement funds in predatory investment practices.

5 (2) Principles that are consistent with the Principles for
6 Responsible Investment, as set forth by the United Nations, to the
7 extent those principles relate to responsible real property investing.

8 (3) A statement that requires an annual report to the board if a
9 private real estate investment is materially inconsistent with the
10 objectives of the policy, regardless of whether the investment was
11 made prior to or after the effective date of the policy. The report
12 shall describe the investment, including the impacts and anticipated
13 impacts of those investments on tenants living in rent-regulated
14 housing units, as well as any impacts on investment performance.

15 ~~(4) A statement that requires any person or entity seeking~~
16 ~~pension fund investments for a strategy that involves the acquisition~~
17 ~~of occupied, rent-regulated housing (A) to agree in writing that~~
18 ~~the proposed investment strategy complies with this policy and~~
19 ~~does not involve predatory investment practices as defined in~~
20 ~~subparagraph (A) of paragraph (2) of Subdivision (a), and (B) to~~
21 ~~describe the anticipated tenant impacts of the project, if any.~~
22 ~~investment manager that enters into an investment agreement with~~
23 ~~the board, or its agents, that involves the acquisition of occupied~~
24 ~~rent-regulated housing to agree, in writing, to abide by the board's~~
25 ~~policy on real estate investment strategies impacting rent-regulated~~
26 ~~housing units.~~

27 (5) If, after the effective date of ~~this~~ *the* policy, an investment
28 manager makes investments that are materially inconsistent with
29 this section, the ~~pension fund~~ *board* shall not use that manager for
30 any new investments.

31 ~~(6) The pension fund shall adopt a complaint procedure for~~
32 ~~alleged violations of this policy that can be used by tenants~~
33 ~~occupying rent-regulated properties that are acquired with an~~
34 ~~investment from the pension fund.~~

35 ~~(7) The pension fund shall require that any investment partner~~
36 ~~acquiring rent-regulated property notify tenants living in the~~
37 ~~property of the existence of this policy and the complaint procedure~~
38 ~~regarding alleged violations of this policy.~~

39 (c) Notwithstanding Section 10231.5, the board shall provide
40 an annual report regarding implementation and compliance with

1 this section, and any policy adopted pursuant to this section, to the
2 Legislature ~~on or before January 1, 2012, and on or before January~~
3 ~~1 of every year thereafter.~~ Any report filed pursuant to this
4 subdivision shall comply with Section 9795.

5 (d) Nothing in this section shall require the board to take action
6 as described in this section unless the board determines, in good
7 faith, that the action described in this section is consistent with the
8 fiduciary responsibilities of the board as described in Section 17
9 of Article XVI of the California Constitution.

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